

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 1/13/11

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LENWORTH SMITH and YVES TOUSSAINT,

Plaintiffs,

Docket No: 10 CV 1773  
(LTS)(AJP)

v.

ATTORNEY AFFIRMATION

J.P. MORGAN CHASE BANK, JOHN WARD,  
GARY SARENTINO, and VINCENT SANDELLA,

**MEMO ENDORSED** -p2

Defendants.  
-----X

MARJORIE MESIDOR, an attorney duly admitted to practice in the Courts of the State of New York and an Associate of the Law Office of Frederick K. Brewington, attorneys for the Plaintiffs LENWORTH SMITH and YVES TOUSSAINT affirms the following statements to be true pursuant to the penalties of perjury:

1. Your affirmant, familiar with all of the facts and proceedings heretofore had herein, respectfully submits this affirmation in support of the instant Order to Show Cause, requesting the Law Offices of Frederick K. Brewington, be permitted to withdraw as counsel for the Plaintiffs LENWORTH SMITH and YVES TOUSSAINT.

2. This office has been representing the Plaintiffs LENWORTH SMITH and YVES TOUSSAINT in this matter.

3. There have been multiple conversations between the Plaintiffs LENWORTH SMITH and YVES TOUSSAINT and attorneys of this firm and it is apparent that there are fundamental differences in opinion between the plaintiffs and this office with respect to the direction of the litigation of this case and our ability to adequately serve this client. Ernest attempts were made to resolve the differences, however, they have been unsuccessful and cannot

be overcome. In light of the attorney client privilege issues, an in-camera conference with the Court to discuss these differences is requested should the Court require further details.

4. As a result of these differences we are unable to go forward as counsel as the differences are irreconcilable and have created a strain upon the attorney-client relationship. We have fully discussed this matter with Mr. Smith and Ms. Toussaint and have provided them with notice of our withdrawal in writing on December 22, 2010.

5. Accordingly, we respectfully move this Court for an Order permitting us to withdraw as attorneys for the plaintiffs, requesting that the matter be adjourned to a date certain to allow Plaintiffs LENWORTH SMITH and YVES TOUSSAINT to seek new counsel and granting such other and further relief as this Court may deem just and proper.

6. The granting of this relief will not result in prejudice to either side.

7. There has not been any prior application for this or similar relief.

WHEREFORE, your affirmant respectfully requests that the within application be granted in its entirety; an Order permitting this firm to:

(1) Withdraw as counsel for Plaintiffs LENWORTH SMITH and YVES TOUSSAINT in the above mentioned matters;

(2) Granting an adjournment to a date certain to allow Plaintiffs LENWORTH SMITH and YVES TOUSSAINT to obtain new counsel; and

(3) Granting such other and further relief as this Court may deem just and proper.

Dated: Hempstead, New York  
January 12, 2011

**BY ECF**

**MEMO ENDORSED**

1/13/11  
1. Plaintiff are to appear before the court on 1/13/11 at 10:00 AM. (My response is due 1/13/11).  
2. Plaintiff cannot show that a party's interest in the matter is not affected by the court's decision.

SO ORDERED:

Hon. Andrew Jay Peck  
United States Magistrate Judge

ECF: Del and  
Adrian

# ECF TRANSCRIPTION SHEET



**ANDREW J. PECK**  
**UNITED STATES MAGISTRATE JUDGE**  
**UNITED STATES DISTRICT COURT**  
Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1370  
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933  
Telephone No.: (212) 805-0036

**Dated:** January 13, 2011

**Total Number of Pages:** 3

## **TRANSCRIPTION OF MEMO ENDORSED ORDER**

1. Plaintiffs are to respond to this application by 1/20/11 or the motion will be granted.  
(Any response by defendants' also due 1/20.)
2. Plaintiffs' counsel is to serve this Order on plaintiffs and provide the court with plaintiffs' contact information.

**Copy to:** Judge Laura Taylor Swain